

UKCoD

WHISTLEBLOWING POLICY

(Making a Disclosure in the Public Interest)

1. Introduction

UKCoD is committed to the highest standards of openness, probity and accountability.

An important aspect of accountability and transparency is a mechanism to enable staff and other members of the charity to voice concerns in a responsible and effective manner. It is a fundamental term of every contract of employment that an employee will faithfully serve their employer and not disclose confidential information about the employer's affairs. Similarly, employees should sign an agreement to confidentiality in all matters appertaining to the charity. Nevertheless, where an individual discovers information which they believe shows serious malpractice or wrongdoing within the organisation then this information should be disclosed internally without fear of reprisal, and there should be arrangements to enable this to be done independently of the Chair of the Board where necessary.

The Public Interest Disclosure Act 1998, gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns. The organisation has endorsed the provisions set out below to ensure that no members of staff should feel at a disadvantage in raising legitimate concerns.

Charity workers can report certain types of wrongdoing and if the information reported, and how it is reported meets specific requirements the law will protect staff who must be a worker, not a volunteer.

It should be emphasised that this policy is intended to assist individuals who believe they have discovered malpractice or impropriety. It is not designed to question any matters which have already been addressed under harassment, complaint, disciplinary or other procedures.

What is whistleblowing

Whistleblowing is the term used when a worker passes on information concerning wrongdoing. The wrongdoing will typically (although not necessarily) be something staff have witnessed at work. To be covered by whistleblowing law, the disclosure must be a 'qualifying disclosure'. This is any disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show that one or more of the following has occurred, is occurring or is likely to occur:

- A criminal offence (this may include, for example, types of financial impropriety such as fraud);
- a breach of a legal obligation;
- a miscarriage of justice;
- danger to the health or safety of any individual;
- damage to the environment; or
- the deliberate covering up of wrongdoing in the above categories.

How is the qualifying disclosure protected?

For a qualifying disclosure to be protected, it must be made by a worker by one of the following permitted methods of disclosure:

- disclosure to the employer or other person responsible for the matter;
- disclosure to a Minister of the Crown, in relation to certain public bodies;
- disclosure to a Prescribed Person designated for the purpose by the order and for the purpose of seeking legal advice;
- Other disclosures may be protected where in the particular circumstances they are reasonable; or
- Special provision is made for disclosures relating to exceptionally serious problems.

Whistleblowing law is located in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998). A worker who blows the whistle, by making a disclosure in accordance with the criteria set out above has the right not to be unfairly dismissed or suffer a detriment (e.g. being dismissed or being denied a promotion) as a result of having made that disclosure.

A "worker" is defined by section 230(3) of the Employment Rights Act 1996 as: "an individual who has entered into or works under (or, where the employment has ceased, worked under) - a. a contract of employment; or b. any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual."

However, in relation to whistleblowing protections, the definition of a worker is extended to:

- agency workers and individuals supplied via an intermediary;
- non-employees undergoing training or work experience as part of a training course, otherwise than at an educational establishment;
- self-employed doctors, dentists, ophthalmologists and pharmacists in the NHS;
- Police officers;
- Student nurses and student midwives.

What is UKCoD's responsibilities in regards to whistleblowing?

As an employer it is good practice to create an open, transparent and safe working environment where staff feel able to speak up, and they will not be treated unfairly at work because they blow the whistle. Although the law does not require employers to have a whistleblowing policy in place, the existence of a whistleblowing policy shows our commitment to listen to the concerns of workers. By having this policy and procedures for dealing with whistleblowing, we are demonstrating that we welcome information being brought to our attention. This is also demonstrated by the following:

Recognising workers are valuable ears and eyes: Workers are often the first people to witness any type of wrongdoing within an organisation. The information that workers may uncover could prevent wrongdoing, which may damage an organisation's reputation and/or performance, and could even save people from harm or death.

Getting the right culture: If an organisation has not created an open and supportive culture, staff may not feel comfortable making a disclosure, for fear of the consequences. The two main barriers whistleblowers face are a fear of reprisal as a result of making a disclosure and that no action will be taken if they do make the decision to blow the whistle.

Making sure our staff can approach the Chair with important concerns is the most important step in creating an open culture. As employers we should demonstrate, through visible

leadership at all levels of the organisation, that we welcome and encourage staff to make disclosures.

Training and support: we should implement training, mentoring, advice and other support systems to ensure staff can easily approach a range of people in the organisation.

Being able to respond: It is in UKCoD's best interests to deal with a whistleblowing disclosure when it is first raised. This allows the charity to investigate promptly, ask further questions of a worker and where applicable provide feedback. This policy explains the benefits of making a disclosure.

Better control: UKCoD embraces whistleblowing as an important source of information towards better information to make decisions and control risk. Whistleblowers respond more positively when they feel that they are listened to.

Resolving the wrongdoing quickly: There are benefits for the organisation if staff can make a disclosure internally rather than going to a third party. This way there is an opportunity to act promptly on the information and put right whatever wrongdoing is found.

UKCoD, and will treat all such disclosures in a confidential and sensitive manner. The identity of the individual making the allegation may be kept confidential so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.

Disclosure or grievance?

Staff who make a disclosure under an organisation's whistleblowing policy should believe that they are acting in the public interest. This means in particular that personal grievances and complaints are not usually covered by whistleblowing law (see UKCoD's Grievance and Disciplinary Policy).

There is Government guidance for whistleblowers to verify the position that a personal grievance is not generally regarded as a protected disclosure. Staff can also contact the Advisory, Conciliation and Arbitration Service (Acas) for guidance on whistleblowing and grievances.

www.acas.org.uk/grievances

Dealing with the whistleblowing disclosure

UKCoD will need to equip all involved as staff and trustees with the knowledge and confidence to make the judgements. Although this may not be possible for smaller organisations, it is considered best practice that there is at least one Trustee of the charity as a point of contact for individuals who wish to blow the whistle, other than the Chair: (Enter name when policy has been agreed)

Dealing with disclosures

Once a disclosure has been made it is good practice to hold a meeting with the whistleblower to gather all the information needed to understand the situation. In some cases a suitable conclusion may be reached through an initial conversation. In more serious cases there may be a need for a formal investigation. It is for the organisation to decide what the most

appropriate action to take is. It is important to note that if an investigation concludes that the disclosure was untrue it does not automatically mean that it was raised maliciously by staff members.

When dealing with disclosures

It is good practice for Officers of the charity to:

- Have a facility for anonymous reporting;
 - Treat all disclosures made seriously and consistently;
 - Provide support to the worker during what can be a difficult or anxious time with access to mentoring, advice and counselling;
 - Reassure the whistleblower that their disclosure will not affect their position at work;
 - Document whether the whistleblower has requested confidentiality;
 - Manage the expectations of the whistleblower in terms of what action and/or feedback they can expect as well clear timescales for providing updates;
 - Produce a summary of the meeting for record keeping purposes and provide a copy to the whistleblower;
 - Allow the worker to be accompanied by a trade union representative or colleague at any meeting about the disclosure;
 - Provide support services after a disclosure has been made such as mediation and dispute resolution, to help rebuild trust and relationships in the workplace;
- Document any decisions or action taken following the making of a disclosure by a worker.

It is also good practice for UKCoD to:

- Record the number of whistleblowing disclosures they receive and their nature;
- Maintain records of the date and content of feedback provided to whistleblowers;
- Conduct regular surveys to ascertain the satisfaction of whistleblowers.

Prescribed Persons

However, there may be circumstances where they feel unable to disclose. There are other ways, some of which are set out in law, that a worker may make a disclosure without losing their rights under whistleblowing law. One option for external disclosures of this type is prescribed persons.

The role of a prescribed person is to provide workers with a mechanism to make their public interest disclosure to an independent body where the worker does not feel able to disclose directly to their employer and the body might be in a position to take some form of further action on the disclosure. Staff will potentially qualify for the same employment rights as if they had made a disclosure to their employer if they report to a prescribed person.

In order to qualify for these rights, as well as meeting the criteria set out in sections ‘What is whistleblowing?’ and ‘How is the qualifying disclosure protected?’, the worker must have a reasonable belief that:

- the matter falls within the remit of the prescribed person, as described in the second column of the Schedule to the Prescribed Persons Order headed “Description of matters” which can be found here:

www.legislation.gov.uk/ukxi/2014/2418/schedule/made

- the information disclosed is substantially true.

The legal term for meeting these criteria is referred to as making a “protected disclosure”. If a protected disclosure is made, the worker may have a right to redress through the employment tribunal should they suffer a detriment or be dismissed from work as a result of making that disclosure. When a whistleblower makes a disclosure to a prescribed person they escalate the issue.

The Charity Commission is one of the Prescribed Persons on the list that UKCoD employees can contact outside their workplace (Prescribed Persons Order 2014):

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>

2. What staff can do

Read [‘Whistleblowing for employees’](#) to understand:

- whether protection applies to your situation;
- what to do if you’re treated unfairly after whistleblowing.

Get independent advice

If you need advice about blowing the whistle on a charity call [Protect](#)’s free and confidential advice line:

Telephone: 020 3117 2520

Protect, a specialist whistleblowing charity, can help explain:

- what types of wrongdoing you can report;
- your legal rights;
- next steps if you decide to report something.

You can also get advice from your trade union or from [Citizens Advice](#).

3. Report your concern to the Charity Commission

1.

Email whistleblowing@charitycommission.gov.uk and answer these questions:

1. What is the name of the charity? Include its [registration number](#) if it is registered.
2. What is your name?
3. What is your telephone number? Only include this if you would be happy for us to contact you directly - for example, it is not a work environment.

4. What is your role at the charity? If you no longer work for the charity, please tell us when you left.
5. Are you a charity employee or a volunteer?
6. What is your concern?
7. What impact does it have on the people the charity helps, its assets, services, staff or reputation?
8. Have you followed your charity's complaints procedure or raised it with the charity's trustees? What was the response? If you have not raised it with your charity, please explain why not.
9. Have you contacted other organisations, like the police or HMRC? Include reference numbers, the name of who dealt with it, and their response if you have.
10. Do you give permission to us to reveal your identity to the charity's trustees?
11. If you attach evidence to your email, how is it relevant to your concern?
12. Names and roles of people involved.
13. Names and roles of people who know about the issue, for example the charity trustees.
14. Specific dates for when events took place.
15. Specific amounts if you report a financial concern.
16. Links to articles if the press has reported on it.

[contact us as a whistleblower.](#)

It is a criminal offence to knowingly or recklessly provide false or misleading information to the Charity Commission.

4. Report concerns anonymously

You do not need to give us your identity or contact details, but it is helpful if you do. If you report concerns anonymously it might:

- make it more difficult for us to investigate your concern;
- be harder to argue that any unfair treatment at work was as a result of blowing the whistle, because we do not have a record of you;
- be harder for us to conduct an investigation in a way that could protect you from being identified.

Confidentiality is respected. Identities are not disclosed without consent, unless there are legal reasons that require this. In some cases it may be possible for the charity to identify the source of the information because of the details of the situation.

If the Charity Commission determines there is something seriously wrong in the charity, it will investigate and work with the charity to address the issue. If more information is needed it will contact the complainant, and give the outcome. If cases are complex they usually take several months to finish. If determined that there is a lower risk to the charity or the people it helps, a record is made of the concern.

Alternatively, a worker might choose to approach the media with their concerns. If a worker goes to the media, they can expect in most cases to lose their whistleblowing law rights. It is only in exceptional circumstances that a worker can go to the media without losing their rights. They must reasonably believe that the information they disclose and any allegation contained in it are substantially true. They cannot be acting for personal gain. Unless the wrongdoing is exceptionally serious, if they have not already gone to their employer or a prescribed person, they must reasonably believe that their employer will subject them to “detriment” or conceal or destroy evidence if they do so. And even then, their choice to make the disclosure must be reasonable.

What happens if a whistleblower believes that they have been unfairly treated

Staff who think they have been unfairly treated because of their whistleblowing may decide to take their case to an employment tribunal. The process for this would involve attempted resolution through the Advisory, Conciliation and Arbitration Service (Acas) early conciliation service.

Employers Information can be found at:

www.acas.org.uk/conciliation

and the Acas helpline can provide further advice.

The Acas helpline details are:

Telephone: 0300 123 1100

Textphone: 18001 030 0123 1100

Monday to Friday, 8am to 8pm Saturday, 9am to 1pm.

Related content

- [Whistleblowing: list of prescribed people and bodies](#)
- [Charity Commission whistleblowing privacy notice](#)
- [Whistleblowing: guidance for prescribed persons](#)
- [Matters of material significance and reporting by auditors and independent examiners to the charity regulator](#)
- [The Public Interest Disclosure Act](#)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/415175/bis-15-200-whistleblowing-guidance-for-employers-and-code-of-practice.pdf

Trustees and Special Interest Group (SIG) members

Only UKCoD employees can utilise the Whistleblowing Policy. However, any volunteer can report things that have happened, are happening or are likely to happen to the Charity Commission which could seriously harm:

- the people a charity helps;
- the charity's staff or volunteers;
- services the charity provides;
- the charity's assets;
- the charity's reputation.

Information helps the Commission to determine if a charity is at risk, and how serious it is. We will make a record of the concern and investigate those that pose the highest risk. If it investigates a concern it usually works with the trustees and the charity to help get it back on track. The Commission only investigates how charities are run but do not investigate any crimes ourselves. For example if you report a criminal offence you still need to tell the police so that they can investigate it.

There is a different process if you want to report serious incidents:

- [on behalf of the trustee body](#)
- in [Scotland](#) or [Northern Ireland](#)

What to report to the Charity Commission

Examples of serious harm include:

- if someone's health or safety is in danger, for example if a charity does not use its safeguarding policy;
- a criminal offence, for example theft, fraud or financial mismanagement;
- if a charity uses its activities as a platform for extremist views or materials;
- loss of charity funds, for example when a charity loses more than 20% of its income or more than £25,000;
- if the charity does not meet its legal obligations, for example if someone uses a charity for significant personal advantage.

Who else to tell

You should also tell:

- [The police](#) about a crime or if you're worried someone's safety;
- HMRC if you have concerns about tax, like [money laundering](#) or [tax evasion](#);
- [Action Fraud](#) if you suspect fraud;
- the police if you [suspect terrorist activity](#).

See also: UKCoD's Safeguarding and Protecting Adults Policy

and Equality and Diversity Policy.

1. **Agreed by the UKCoD Board on the Board meeting held on 24.02.2021;**
 2. **Approved and minuted.**